



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,843	08/28/2000	H. Addison Sovine	1135.ACT2.PT	9963

26986 7590 04/19/2002

MORRISS, BATEMAN, O'BRYANT & COMPAGNI
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

EXAMINER

GRAHAM, MARK S

ART UNIT PAPER NUMBER

3711

DATE MAILED: 04/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/650,843

Applicant(s)

SOVINE, H. ADDISON

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3711

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 10, 14, 15, 17, 18, 20, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Duer. Duer's basket member 104 is considered the insert. Its mesh construction allows for venting. Regarding claim 18, note legs 72,74. In response to applicant's amendments Duer's basket opening is capable of receiving the barrel of a gun and the mesh would to some degree decelerate a bullet.

Claims 1, 10, 12, 13, 14, 15, 17, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Fumero. Note Fumero's Fig. 22-24 device and bullet deceleration chamber 20.

With regard to the claim 14 amendments compartment 105 itself may be considered the housing. With regard to the claim 1 amendments Fumero's insert opening is capable of receiving the barrel of a gun.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duer. Duer. Duer does not use rubber but such is a commonly known material used in the art and would

obviously have been suitable for Duer's purpose if such were more readily available to the ordinarily skilled artisan.

Claims 2-6, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fumero. Fumero's ballistic duct portions may be considered part of the deceleration chamber and though not specifically shown as removable it would have been obvious to the ordinarily skilled artisan to have formed the device such that the plates could have been replaced as needed for safety purposes. The spaces between the duct portions function as vents, (Claims 2-6, 11).

Concerning claim 16, Fumero's plate 30 appears removable. However, even if this were not the case it would have been obvious to have made it such so that it could have been replaced from time to time.

Regarding the deceleration medium, Fumero does not use rubber but such is a commonly known material used in the art and would obviously have been suitable for Fumero's purpose if such were more readily available to the ordinarily skilled artisan.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabler. Tabler's insert 36 comprises two bottom plates 40 and 50. The method of fastening the plates to the member 42 is not specified but numerous well known techniques including for example riveting which requires slots for the rivets would have been obvious to the ordinarily skilled artisan.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duer in view of Fumero. Duer only discloses a single bottom mesh plate on his insert. However, as disclosed by Fumero it is known in the art to use a plurality of plates including an apparently removable plate 30 to form such inserts. As Duer indicates that his insert may be made of a

variety of materials it would have been obvious to one of ordinary skill in the art to have formed it of steel plate as disclosed by Fumero, so long as it was perforated to retain the mesh feature. Regarding claim 25, Duer's perforations will act as vents in the insert.

Applicant's arguments filed 3/8/02 have been fully considered but they are not persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
4/8/02